

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:08-CR-165
)	(VARLAN/GUYTON)
FRED WILLIAM BUIS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to United States Magistrate Judge Bruce Guyton pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case is presently before the undersigned only for disposition of the Defendant's Motion to Continue Trial Date [Doc. 30] filed on September 21, 2009. The parties appeared before the undersigned on September 23, 2009 for a scheduled motion hearing and pretrial conference. Assistant United States Attorney Cynthia Davidson was present at the hearing on behalf of the government. Attorneys Jeffrey Daniel and Richard Gaines appeared on behalf of the Defendant, who was also present.

The Defendant asks the Court to extend the plea negotiation deadline and continue the trial date in this case because he only just received further discovery from the government and because he is involved in continuing negotiations with the government that he believes are likely to result in resolution of the case without the need for trial. The government has no objection to the motion.

Defense counsel stated that at the hearing that the Defendant was aware of his speedy trial rights. Defense counsel also stated that they had discussed the need for a trial continuance with the Defendant and that he wanted the trial to be continued. The Defendant himself stated that he wanted the trial continued and that he understood that he would remain subject to the conditions of his bond pending the new trial date. The parties agreed on a new plea negotiation deadline of February 9, 2010 and a new trial date of February 23, 2010. The parties also agreed that all time between the September 23, 2009 hearing and the new trial date of February 23, 2010 is fully excludable time under the Speedy Trial Act.

The Court finds that the Defendant's motion to extend the plea negotiation deadline and continue the trial date is well-taken and that the ends of justice served by continuing the trial outweigh the best interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Defendant has recently received discovery from the government and he needs the reasonable time necessary to review that discovery in order to effectively prepare for trial. See 18 U.S.C. § 3161(h)(7)(B)(iv). The Court finds, and the parties agree, that this could not take place before the October 6, 2009 trial date or in less than five months. Thus, without a trial continuance, counsel would not have the reasonable time necessary to prepare for trial despite their use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, the Defendant's Motion to Continue [Doc. 30] is **GRANTED**. The Court **ORDERS** that the trial be continued and reset to commence on **February 23, 2010**. The Court finds that all the time between the September 23, 2009 hearing and the new trial date of February 23, 2010 is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(7)(A)-(B). With regard to other scheduling in the case, the plea negotiation deadline shall

be extended to **February 9, 2010**. There are no pending pretrial motions and the deadline for filing pretrial motions has passed. Both parties stated that they do not presently anticipate raising any pretrial issues. Accordingly, the parties have agreed that there is no need for the Court to set a pretrial conference at this time.

It is **ORDERED**:

- (1) The plea negotiation deadline is extended to **February 9, 2010**;
- (2) The trial of this matter is reset to commence on **February 23, 2010**, before the Honorable Thomas A. Varlan, United States District Judge; and
- (3) All time between the **September 23, 2009** hearing and the new trial date of **February 23, 2010** is fully excludable time under the Speedy Trial Act for the reasons set forth herein.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge